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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,193	02/27/2002	Ryan S. Steelberg	24207-11488	8212
62296	7590	10/02/2006	EXAMINER	
GOOGLE / FENWICK SILICON VALLEY CENTER 801 CALIFORNIA ST. MOUNTAIN VIEW, CA 94041			RAMPURIA, SHARAD K	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/086,193

Applicant(s)

STEELBERG ET AL.

Examiner

Sharad Rampuria

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 31-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

I. The Art Unit location of this application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

II. The current office-action is in response to the amendments filed on 09/14/2006.

Accordingly, Claims 1-30 are cancelled, thus, Claims 31-49 are imminent for further assessment as follows:

### ***Information Disclosure Statement***

III. The Information Disclosure statement (IDS) submitted is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statements.

### ***Claim Rejections - 35 USC § 102***

IV. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 31-36, 41-47 & 49 are rejected under 35 U.S.C. 102 (e) as being anticipated by **Tendler** [US 6778820] *hereinafter* **Tendler**.

As per claim 1, **Tendler** teaches:

A system for electronic gaming at locations remote from a gaming source authorized to host gaming services (Abstract), comprising:

A broadcast station (20; Fig.1) arranged to transmit game play signals in accordance with instructions from the gaming source; (18; Fig.1, Col.3; 32-38) and

A remote gaming device having a memory arranged to store location data defining an authorized gaming area for the gaming source (e.g. a wireless phone is provided with a GPS receiver, the output of which is the latitude and longitude of the wireless phone. This information is wirelessly transmitted to the sports bet along with an indication, in one embodiment, of the time since last fix. In these phones the location is memorized for the times when the satellites are not in view. Indicating a time since last fix gives the gambling authority the opportunity to ascertain that an individual is within the boundaries of the gaming authority if the fix is for instance less than ten minutes old. This prevents the problem of someone taking the phone physically to Nevada and then removing it to a more convenient location, with the Nevada location having been memorized by the phone; Col.1; 66-Col.2; 10), the remote gaming device further having a location determination system arranged to determine a physical location of the remote gaming device, (Col.4; 38-55)

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Wherein the remote gaming device is placed in an active condition for game play using the game play signals when the physical location of the remote gaming device is within the authorized gaming area. (Col.5; 11-24, Col.2; 51-Col.3; 5).

As per claims 32, 44, **Tendler** teaches:

The system of claims 31, 42, wherein the location data is determined based on a registration location of the remote gaming device. (e.g. In order to place a bet, an individual 24, in one embodiment, keys in the telephone number of the sports bet on keypad 26. When prompted to do so, he presses a location reporting button 28 and the location of the wireless transceiver is reported to the sports bet. On board the wireless phone is a unit which calculates the time since last fix, as well the location. Also transmitted is the telephone number of the wireless phone (MIN) or some synthetic number identifying the wagering individual; Col.3; 46-62)

As per claim 33, **Tendler** teaches:

The system of claim 31, wherein the location data is provided to the remote gaming device in response to registration of the remote gaming device. (Col.3; 46-62)

As per claims 34, 49, **Tendler** teaches:

The system of claims 31, 45, the remote gaming device further comprising:

A receiver (80; Fig.1) arranged to receive the game play signals;

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A processor (10; Fig.1) operatively connected to the receiver; and instructions, stored in memory and executable by the processor, arranged to cause graphical images depicting game play to be displayed on a display (10; Fig.1) of the remote gaming device. (Col.4; 38-55)

As per claim 35, **Tendler** teaches:

The system of claim 34, wherein the location determination system is operatively connected to the receiver. (14; Fig.2, Col.4; 38-55)

As per claims 36, 43, 47, **Tendler** teaches:

The system of claims 31, 42, 45, the remote gaming device further comprising:

A GPS device, wherein the location determination system is further arranged to determine the physical location of the remote gaming device based on an output of the GPS device. (14; Fig.2, Col.4; 38-55)

As per claim 41, **Tendler** teaches:

The system of claim 31, wherein the remote gaming device is arranged as a stand-alone purpose-built electronic gaming device. (10; Fig.1, Col.3; 32-37)

As per claim 42, **Tendler** teaches:

A method of facilitating electronic gaming at locations remote from a gaming source authorized to host gaming services (Abstract), comprising:

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Activating a remote gaming device, wherein the activating includes providing to the remote gaming device location data defining an authorized gaming area for the gaming source; (Col.1; 66-Col.2; 10), and

Broadcasting to the remote gaming device game play signals in accordance with instructions from the gaming source, (18; Fig.1, Col.3; 32-38)

Wherein the remote gaming device is placed in an active condition for game play using the game play signals when a physical location of the remote gaming device is within the authorized gaming area. (Col.5; 11-24, Col.2; 51-Col.3; 5).

As per claim 45, **Tendler** teaches:

A method of electronic game play at location remote from a gaming source authorized to host gaming services, comprising:

Receiving and storing with a remote gaming device location data defining an authorized gaming area for the gaming source; (Col.1; 66-Col.2; 10)

Determining with the remote gaming device a physical location of the remote gaming device; (Col.3; 46-62)

Receiving with the remote gaming device game play signals broadcasted in accordance with instructions from the gaming source; (18; Fig.1, Col.3; 32-38) and

Enabling game play using the game play signals when the physical location of the remote gaming device is within the authorized gaming area. (Col.5; 11-24, Col.2; 51-Col.3; 5).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 37-38 & 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Tendler** in view of **Clapper** [US 20020168967] *hereinafter* **Clapper**.

As per claims 37, 48, **Tendler** teaches all the particulars of the claim except wherein the location determination system is further arranged to determine the physical location of the remote gaming device based on radio frequency triangulation telemetry tracking. However, **Clapper** teaches in an analogous art, that the system of claims 31, 45, wherein the location determination system is further arranged to determine the physical location of the remote gaming device based on radio frequency triangulation telemetry tracking. [Pg.2; 0022]



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Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify **Tendler** including wherein the location determination system is further arranged to determine the physical location of the remote gaming device based on radio frequency triangulation telemetry tracking in order to provide a distinctive technology to locate a mobile device.

As per claim 38, **Tendler** teaches all the particulars of the claim except wherein data for the radio frequency triangulation telemetry tracking is received from the broadcast station. However, **Clapper** teaches in an analogous art, that the system of claim 37, wherein data for the radio frequency triangulation telemetry tracking is received from the broadcast station. [Pg.2; 0022]

Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Tendler** in view of **Kotzin** [US 6470180] *hereinafter* **Kotzin**.

As per claim 39, **Tendler** teaches all the particulars of the claim except wherein the game play signals are broadcast on a band selected from the group consisting of an FM band, an AM band, a television band, a satellite band, and a cellular band. However, **Kotzin** teaches in an analogous art, that the system of claim 31, wherein the game play signals are broadcast on a band selected from the group consisting of an FM band, an AM band, a television band, a satellite band, and a cellular band. (Col.3; 61-Col.4; 7) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify **Tendler**

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including wherein the game play signals are broadcast on a band selected from the group consisting of an FM band, an AM band, a television band, a satellite band, and a cellular band in order to exploits a broadcast system to enhance a wireless gaming experience.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Tendler** in view of **Thiriet** [US 20020168967] *hereinafter* **Thiriet**.

As per claim 40, **Tendler** teaches all the particulars of the claim except wherein the remote gaming device is arranged as a smart card. However, **Thiriet** teaches in an analogous art, that the system of claim 31, wherein the remote gaming device is arranged as a smart card. (Col. 1; 55-64 & Col.2; 54-63) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify **Tendler** including the player device is configured as a smart card in order to provide the capabilities available in a SIM card for executing computer game programs.

### ***Response to Amendments & Arguments***

V. Applicant's arguments filed on 06/16/2006 have been fully considered but they are not persuasive.

#### ***Relating to Claim 31:***

In comeback to Applicant's allegation that **Tendler** doesn't teach, "A remote gaming device having a memory arranged to store location data defining an authorized gaming area for

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the gaming source;” it is noted that the Examiner respectfully asserts that the cited art, is legally efficient for the purpose of rendering claim unpatentable. In particular, **Tendler** supports the declaration as, a wireless phone is provided with a GPS receiver, the output of which is the latitude and longitude of the wireless phone. This information is wirelessly transmitted to the sports bet along with an indication, in one embodiment, of the time since last fix. In these phones the location is memorized for the times when the satellites are not in view. Indicating a time since last fix gives the gambling authority the opportunity to ascertain that an individual is within the boundaries of the gaming authority if the fix is for instance less than ten minutes old. This prevents the problem of someone taking the phone physically to Nevada and then removing it to a more convenient location, with the Nevada location having been memorized by the phone. (Please perceive Col.1; 66-Col.2; 10), at the same time as in support; “the examiner must give the broadest reasonable interpretation to all claims presented.” As stated in MPEP § 2111 - § 2111.01. Hence, it is believed that ***Tendler still teaches the claimed limitations.***

The above arguments also recites for the claims 42, 45, consequently the response is the same explanation as set forth above with regard to claim 31.

Because the remaining claims depend directly/indirectly, from one of the independent claims discussed above, consequently the response is the same explanation as set forth above.


With the intention of that explanation, it is believed and as enlighten above, the refutation are sustained.

***Conclusion***

VI. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or [EBC@uspto.gov](mailto:EBC@uspto.gov).

  
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Art Unit 2617